

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Supplement to the Applicants'
Petition for Reconsideration of Holding of Abandonment
or, Alternatively,
Petition for Revival of Unintentionally Abandoned
Application,
and
Conditional Request for Refund
(In Light of the Interview of May 31, 2007
and the Interview of June 6, 2007)

Inventor:

**James A. Barger, Sr. and
Paul J. Hubbell, Jr.**

Invention:

PORTABLE CRANE/WINCH/HOIST

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(P/A File ID: 15294)

[Filed: June 14, 2007]

**This paper is a Supplement to applicants' Petition for
Reconsideration of Holding of Abandonment or, Alternatively, Petition
for Revival of Unintentionally Abandoned Application ("Petition")
filed on June 8, 2007. Please attach this paper to said Petition.**

Inventors: Barger and Hubbell
Title: Portable Crane/Winch/Hoist
Serial No.: 10/657,029

Filed: April 20, 2004
Atty Docket No.: 15294
Date: June 14, 2007

STATEMENT OF THE SUBSTANCE OF THE INTERVIEWS
OF MAY 31, 2007 & JUNE 6, 2007

In response to the Interview Summary mailed on June 8, 2007 and received on June 11, 2007, the applicants submit the following Statement of the Substance of the Interview. This Statement is also made as a Supplement to the applicants' Petition for Reconsideration of Holding of Abandonment or, Alternatively, Petition for Revival of Unintentionally Abandoned Application ("Petition") filed on June 8, 2007, as said Petition was filed before undersigned counsel received the Interview Summary.

I. SUBSTANCE OF THE MAY 31, 2007 INTERVIEW

Undersigned counsel spoke with the Examiner via telephone on May 31, 2007. This call was made in response to the Notice of Abandonment mailed to the applicants on May 22, 2007, the Notice of Non-Compliant Amendment mailed to the applicants on May 3, 2007 (the "Second Notice"), and the Notice of Non-Compliant Amendment mailed to the applicants on August 18, 2006 (the "First Notice").

Undersigned counsel asked the Examiner why a Notice of Abandonment had been issued in light of: (1) the fact that the applicants replied to the Second Notice within seven days of the mailing date of the Second Notice and within three days of receipt of same, and (2) the Second Notice explicitly indicated that applicants had the longer of one month or thirty days from the mailing date of May 3, 2007 to provide a response to said Second Notice. Applicants further noted that neither the Second

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Notice, nor the applicants' response to same, was referenced in the Notice of Abandonment.

The Examiner stated that the case is "Abandoned" and that the Second Notice and the Notice of Abandonment were intended to be mailed together. Further, the Examiner stated that the applicants' response to the First Notice was "clearly non-compliant" as it failed to include a full listing of all claims currently in the application. The Examiner then stated that, as the six month time period set by the Office action of August 18, 2006 had expired, the period for response could not be restarted.

When asked why the Second Notice and the Notice of Abandonment were mailed almost three weeks apart, the Examiner had no answer other than speculation as to administrative problems within the Office. When asked why the Second Notice contained the statement explicitly granting the longer of one month or thirty days from the mailing date of May 3, 2007 to provide a response to said Second Notice, the Examiner had no answer other than to suggest that an error had occurred.

Finally, the Examiner suggested that the applicants submit a Petition for Revival given the unusual circumstances, in favor of the applicants, which surround the holding of abandonment. When asked if there was any way to simply withdraw or reconsider the holding of abandonment, the Examiner suggested that his supervisor may be able to discuss other options with undersigned counsel.

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II. SUBSTANCE OF THE JUNE 6, 2007 INTERVIEW

On June 6, 2007, an associate of undersigned counsel spoke with the Examiner's Supervisor. After briefly discussing with the Supervisor the applicants' current situation, as well as the Interview of May 31, 2007 with the Examiner, applicants asked the Supervisor for a recommendation with regard to obtaining a reversal of the holding of abandonment or otherwise reviving applicants' application. The Supervisor suggested that the applicants file a Petition for Reconsideration of the holding of abandonment, and also file, in the alternative, a Petition for Revival of the applicants' application. As a result, the applicants filed their Petition of June 8, 2007.

III. REBUTTAL OF THE EXAMINER'S STATEMENT

As more fully discussed in the applicants' Petition for Reconsideration of Holding of Abandonment or, Alternatively, Petition for Revival of Unintentionally Abandoned Application ("Petition") filed on June 8, 2007, which by this reference is incorporated herein, the applicants respectfully suggest that the holding of abandonment is not well taken.

Specifically, the applicants assert that their response to the First Notice satisfies the requirement of a bona fide response attempting to move the application to final action. As a result, applicants respectfully disagree that no additional time could be awarded subsequent to the six month period set forth in the Office action of August 18, 2006.

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Moreover, applicants respectfully assert that the grant of the 30-day extension made in the Second Notice is at least an implicit holding and decision in the record that the applicants' reply of February 19, 2007 was a "bona fide attempt to advance the application to final action" and further constituted a "substantially complete reply" to the First Notice.

IV. CONCLUSION

The above constitutes the substance of the May 31st interview with the Examiner as well as the applicants' arguments and views of the erroneous holding of abandonment.

Respectfully submitted,

/Raymond G. Areaux/

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